IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

Crl.MC.No. 373 of 2007()

CC.1125/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONERS/ACCUSED 1 & 2:

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1. RAJU, S/O. VARGHESE, VELLAYIL VEETTIL
   MUPPATHADAM KARA, KADUNGALLOOR VILLAGE.

2. PAOULY ALIAS PHILOMENA, W/O, VARGHESE
   DO. DO.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS/ COMPLAINANT AND CW1:

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1. STATE OF KERALA, REP. BY PUBLIC
   PROSECUTOR, HIGH COURT OF KERALA
   ERNAKULAM.(SUB INSPECTOR OF POLICE,
   PALARIVATTOM POLICE STATION IN
   CRIME NO.331 OF 2004).

2. PRINCY, W/O. RAJU, AGED 25 YEARS,
   PAYYAPPILLY HOUSE, SOBHA ROAD,
   VENNALA KARA, EDAPPALLY SOUTH VILLAGE
   KANAYANNOOR TALUK, ERNAKULAM DIST.

R2 BY ADV. SRI.ANVER BASHEER
R1 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 373 of 2007

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Dated this the 14th day of February, 2007

O R D E R

The petitioners are the husband and mother-in-law of the second respondent - defacto complainant. The defacto complainant had filed a complaint before the police alleging commission of the offence punishable under Section 498A I.P.C. by the petitioners herein. The police conducted investigation and filed a final report. Cognizance has been taken of the offence punishable under Section 498A I.P.C. against both the petitioners by the J.F.C.M. -I, Ernakulam. The case is pending before that court as C.C.No. 1125 of 2005.

2. The petitioners along with the second respondent have come before this Court with a prayer that the prosecution initiated against the petitioners under Section 498A I.P.C. may be quashed. The second respondent is represented by a counsel. The second respondent has filed an affidavit, in which she confirms that the disputes are settled and she has compounded the offence allegedly committed by the petitioners. She now wants to withdraw the

complaint filed by her. The learned counsel for the second respondent vouches for the signature of the second respondent in the affidavit filed.

3. I am satisfied from the materials available on record and the submissions made by the counsel for the rival contestants that the matter has been amicably settled between the parties. But the offence under Section 498A I.P.C. has not been declared to be compoundable. But it is pointed out that in the wake of the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386), notwithstanding the fact that the offence is not compoundable under Section 320 Cr.P.C., the proceedings can be quashed, in the interests of justice, which must occasionally in a case like the instant one, transcend the interests of mere law.

4. Notice is given to the learned Public Prosecutor. The learned Prosecutor does not raise any serious objection.

4. Both counsel submit that the matter has been settled. The offence has been compounded. The parties have resumed cohabitation along with their infant child born in the wedlock. I am satisfied in the facts and circumstances that this is a fit case where such powers under Section 482 Cr.P.C. can be invoked in the interests of justice, notwithstanding the fact that the offence alleged is not compoundable.

5. This Crl.M.C. is hence allowed. C.C.No. 1125 of 2005 pending before the J.F.C.M. Court -I, Ernakulam is hereby quashed.

(R. BASANT)
Judge

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